



BOARD OF COUNTY COMMISSIONERS' (BOCC) CONCURRENCE FORM

This form must be completed for all staff reports being prepared for BOCC meetings/public hearings and is the cover sheet for the staff report. The original staff report, the required 10 double-sided copies, and a PDF version of the staff report need to be submitted to the County Manager's Office one (1) week in advance of the scheduled presentation date.

To: Office of the County Manager

From (Name & Division): John Mathias, County Attorney **Date:** 10/05/11

Phone#: 301-600-1030 **E-mail Address:** jmathias@frederickcountymd.gov

Staff Report Topic:

(The text provided here will also be reflected on the meeting agenda and county's website.)

2012 Legislative Considerations

Requested Meeting Date (mm/dd/yr): 10/06/2011 **Est. Presentation Time:** 20 Minutes

Type of Meeting:

(Click to place a check mark in the following appropriate boxes.)

☒ Administrative Business *(The Consent Agenda Committee determines which items are eligible for the consent agenda.)*

☐ Worksession ☐ Closed Session ☐ Public Hearing (a.m. ☐ or p.m. ☐)

☐ BOCC/BOE Mtg. ☐ County/Municipalities Mtg.

☐ Power Point Presentation

Board Action Desired: ☒ Decision ☐ Guidance ☐ Information

Staff Report Review:

This staff report has been thoroughly reviewed first by the appropriate divisions/agencies noted on Page 2 followed by those outlined below :

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> <u>(Page 2)</u>
<input type="checkbox"/> Budget Officer	_____	_____	_____
<input type="checkbox"/> Finance Director	_____	_____	_____
<input checked="" type="checkbox"/> County Attorney's Office	<u>JM</u>	<u>10/05/2011</u>	<u>N</u>
<input type="checkbox"/> County Manager	_____	_____	_____

Other Reviewing Divisions/Agencies:

(Click to place a check mark in the following appropriate spaces.)

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> <u>(noted below)</u>
<input type="checkbox"/> <input type="checkbox"/> Animal Control	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Citizens Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Community Development	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Emergency Management	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Fire & Rescue Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Health Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Human Resources	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Interagency Information Technologies	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Internal Audit	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Management Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Parks & Recreation	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Public Works	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Transit Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Utilities & Solid Waste Management	_____	_____	_____
Other: _____	_____	_____	_____
Other: _____	_____	_____	_____
Other: _____	_____	_____	_____

Elected Officials or Independent Agencies:

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> <u>(noted below)</u>
<input type="checkbox"/> <input type="checkbox"/> Board of Education	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Board of Elections	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Board of License Commissioners	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Citizens Care & Rehabilitation Center	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Frederick Community College	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Frederick County Public Libraries	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Montevue Assisted Living	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Sheriff's Office	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> Social Services	_____	_____	_____
<input type="checkbox"/> <input type="checkbox"/> State's Attorney's Office	_____	_____	_____

Comments:

1. <u>From:</u> _____	<u>Date:</u> _____
_____	_____
_____	_____
2. <u>From:</u> _____	<u>Date:</u> _____
_____	_____
_____	_____
3. <u>From:</u> _____	<u>Date:</u> _____
_____	_____
_____	_____
4. <u>From:</u> _____	<u>Date:</u> _____
_____	_____
_____	_____
5. <u>From:</u> _____	<u>Date:</u> _____
_____	_____
_____	_____



OFFICE OF THE COUNTY ATTORNEY FREDERICK COUNTY, MARYLAND

Winchester Hall • 12 East Church Street • Frederick, Maryland 21701
301-600-1030 • FAX: 301-600-1161 • TTY: Use Maryland Relay
www.frederickcountymd.gov

MEMORANDUM

COMMISSIONERS

Blaine R. Young
President

C. Paul Smith
Vice President

Billy Shreve

David P. Gray

Kirby Delauter

TO: Board of County Commissioners

FROM: John S. Mathias, County Attorney *JM*
Ragen Cherney, County Manager's Office

DATE: October 5, 2011

SUBJECT: 2012 Legislative Considerations

ISSUE: Should the Board of County Commissioners approve the listed legislative proposals to be moved forward to public hearing?

The Board of County Commissioners met on September 8, 2011 and again on September 15, 2011, to review and direct five bill requests and 13 position statements to be taken to public hearing on Tuesday, October 18, 2011.

COUNTY ATTORNEY

John S. Mathias

SENIOR ASSISTANT COUNTY ATTORNEYS

Michael J. Chomel
Linda B. Thall

ASSISTANT COUNTY ATTORNEYS

Richard J. McCain
Kathy L. Mitchell

BILL REQUESTS

1. Revision to Inmate Fees for the Frederick County Adult Detention Center
2. Increase to the Annual Amount of Gaming Permits Issued for Raffles
3. Permitting Video Lottery Terminals (Slots) for Local Charitable Organizations
4. Granting Taxing Authority to the Frederick County Board of Education
5. Tax Credit for Job Creation in Small Businesses

POSITION STATEMENTS

1. State School Construction Exceed Economic Assistance for Business Entities
2. Frederick County Public Schools Authority to Count and Report Undocumented Students
3. Maryland to be a "Shall Issue" State for a Right to Carry a Firearm
4. Reinstatement of Highway User Revenues to Local Governments
5. Constitutional Convention Regarding Those in the United States Unlawfully

CHARACTER COUNTS!



TRUSTWORTHINESS • RESPECT
RESPONSIBILITY • FAIRNESS
CARING • CITIZENSHIP

CHARACTER COUNTS! and the Six
Pillars of Character are service
marks of the CHARACTER
COUNTS! Coalition, a project of the
Josephson Institute of Ethics.
www.charactercounts.org

6. Support for the Maryland Partial Birth Abortion Ban Act
7. Constitutional Amendment to Prohibit "Economic Development" Takings
8. Cooperative Enforcement of Federal Immigration Laws throughout Maryland
9. Concerns with the Negative Impact of State Stormwater Regulations to Local Governments
10. Repeal or Modifications of the Work Place Fraud Act of 2009 (SB 909)
11. Sunsetting of Issues on Unemployment Insurance Fees on Businesses
12. Opposition to PlanMaryland
13. Opposition to Mandated State Septics Regulations on Local Governments

Since the prior meeting four additional legislative requests have been received for consideration for inclusion in the legislative package. Four items were forwarded by the Finance Division and two items were forward by the Department of Emergency Communications Director.

They are as follows:

FINANCE DIVISION:

1. Auctioneer Fees. The Finance Division is requesting legislation to amend current state law allowing for an auctioneer fee to be set by the Frederick County Board of County Commissioners, equal to but not exceeding the actual cost of each property sold.

The current fee for Frederick County has been set at \$3.00 per property sold for many years, and the Finance Division would like to have the ability to set the fee according to the actual cost, but not to exceed the actual cost. This will protect the County if we find that the actual fee is greater than that allowed by the Maryland Code. For example, a request for bid by Baltimore County for their online tax lien auction generated bids ranging from \$4.95 to \$15.00 per property sold.

2. Bond Authority. The Finance Division is requesting an additional \$100 million in bond authority. This additional bond authority will provide for the Six-Year Capital Improvements Program (CIP) Budget for the period Fiscal Year 2012 through Fiscal Year 2017. This authority takes into account all bond funded projects plus estimated installment purchase agreements (IPAs) primarily for the purchase of land preservation agreements that require bond authority. The amount requested also provides for bond authority for projects approved in prior Capital Improvement Programs for which no bond authority was sought due to construction and appropriation timing differences.

This request is intended to match the bond authority as requested by the current Board of County Commissioners with the passage of the Capital Improvement Program by that same Board of County Commissioners.

3. Expanded Appropriation Authority. Currently there is a requirement for the Board of County Commissioners (BOCC) to set aside as unappropriated undesignated fund balance an amount equal to five percent of the General Fund expenditures and transfers to the Frederick County Public Schools and Frederick Community College for the prior fiscal year. There is no such mechanism in place to provide for the BOCC to use these funds as a source of funding for appropriations. Likewise, there is no mechanism in place to use other reservations or designations of fund balance (i.e. snow removal contingency) as a funding source for appropriations. Also, there is no authority to use current year unexpected and unbudgeted revenues as a funding source for supplemental appropriations. Currently, the BOCC has the authority to appropriate fund balance only if the surplus is audited. The audited surplus has a two fiscal year delay in its availability.

As a result, the Finance Division is requesting expanded appropriation authority to use as a funding source in any given fiscal year the five percent contingency funds, all reservations and designations of fund balance and realized but unexpected and unbudgeted revenues as a source of funding for the then current year's supplemental appropriations. This is not a request to have the ability to appropriate funds that do not exist. This is a request to use known reserves, designations and realized but previously unexpected revenue sources to fund appropriations in any year necessary.

4. Terminology Changes for Fund Balance. Currently there are references in various legislation and the Frederick County, Maryland Code of Ordinances that reference "Reserved Fund Balance, "Unappropriated Undesignated Fund Balance" and other similar terminology describing the designations of fund balance. The Governmental Accounting Standards Board recently issued Governmental Accounting Standards Board Statement Number 54, "Fund Balance Reporting and Governmental Fund Type Definitions" (GASB54). GASB54 redefines the designations of fund balance for governmental funds in the following categories: 1) Unspendable, 2) Restricted, 3) Committed, 4) Assigned, and 5) Unassigned. When the County uses these new categories in accordance with Generally Accepted Accounting Principles (GAAP), the legislated-defined categories will no longer exist.

It is recommended that existing legislation be revised to relate to the new GAAP categories

EMERGENCY COMMUNICATIONS:

1. Adding to § 9-234 of the *Annotated Code of Maryland*, Labor and Employment Article, an additional definition of "On duty" to read: "8. Any duty assigned a member of a fire police pursuant to PS 7-302, PS 7-303 or 7-304."

This legislation is needed to clarify workers compensation coverage would be provided to a member acting as a fire police providing any duty allowed in any of these articles. This predominant issue is the ambiguity of coverage for the fire police when acting on behalf of a sheriff or municipal law enforcement agency.

2. To amend §9-602(g) of the *Annotated Code of Maryland, Labor and Employment Article*, the definition of "Average weekly wage" to add, 3 "For purposes of the section, a volunteer firefighter, volunteer rescue squad member, volunteer ambulance company member, volunteer advanced life support member or volunteer fire police shall not include stipends of less than \$5200 paid to such members as Average weekly wage and for purposes of this section shall be considered volunteer firefighters, volunteer rescue squad members, volunteer ambulance company members, volunteer advanced life support members or volunteer fire police. Such stipends shall not be used in calculation of workers compensation premium. "

Both of these changes have statewide implications and have been discussed at the Maryland State Firemen's Association (MSFA). The Chairman of the MSFA Committee recommends such change, it would be an advantage to have local sponsors to work with and provide support for BOCC.

Additionally, the second request is a recommendation from the DFRS/FCVFRA Task Force committee from 2010, which would allow small stipends to volunteers to offset gas, food and other expenses as a volunteer that would be considered remuneration and possible jeopardize workers compensation coverage as a volunteer.

RECOMMENDATION: The Board of County Commissioners should finalize and incorporate the legislative proposals to take to public hearing for Tuesday, October 18, 2011

JSM/rc

Attachment

Cc: Dave Dunn, County Manager
Joyce Grossnickle, Administrative Officer

Bond Authority Request
2012 Legislative Session
As of September 19, 2011

	Bonds To Be Issued	Estimated IPA's To Be Issued	Total Bond Authority Needed	Less Existing Authority	Bond Authority Requested 2012 Legislative Session
Unfunded from prior years' CIP	\$ 18,597,709	\$ 2,642,472	\$ 21,240,181	\$ 20,328,126	\$ 912,055
FY 2012	859,700	2,281,772	3,141,472	-	3,141,472
FY 2013	13,856,580	-	13,856,580	-	13,856,580
FY 2014	15,716,170	-	15,716,170	-	15,716,170
FY 2015	21,789,530	969,350	22,758,880	-	22,758,880
FY 2016	13,857,530	-	13,857,530	-	13,857,530
FY 2017	16,270,100	2,681,322	18,951,422	-	18,951,422
	<u>\$ 100,947,319</u>	<u>\$ 8,574,916</u>	<u>\$ 109,522,235</u>	<u>\$ 20,328,126</u>	<u>\$ 89,194,109</u>
				Rounding	10,805,891
				Bond Authority Requested	<u>\$ 100,000,000</u>